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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

SURGICAL INSTRUMENT SERVICE COMPANY, INC.,

Plaintiff,

V.

**INTUITIVE SURGICAL, INC.,
*Defendant.***

Case No. 3:21-cv-03496-AMO

**DECLARATION OF PAUL D.
BRACHMAN IN SUPPORT OF
INTUITIVE'S MOTION FOR
LIMITED SUPPLEMENTAL
DISCOVERY**

The Honorable Araceli Martínez-Olguín

1 I, PAUL D. BRACHMAN, declare as follows:

2 1. I am an attorney licensed to practice in New York and the District of Columbia,
3 and am admitted *pro hac vice* to practice before this Court. I am a partner with the law firm of
4 Paul, Weiss, Rifkind, Wharton & Garrison LLP (“Paul, Weiss”), counsel for Intuitive Surgical,
5 Inc. (“Intuitive”) in this matter. I have personal knowledge of the facts set forth herein, and if
6 called to testify, I could and would testify competently hereto.

7 2. Attached to this declaration as **Exhibit 1** is a true and correct copy of excerpts of
8 the Updated Bero Report Schedules / Errata Sheet dated February 25, 2023, which was
9 previously filed on the docket in this matter with redactions to protect confidential material at
10 ECF No. 229-48.

12 3. Attached to this declaration as **Exhibit 2** is a true and correct copy of the Expert
13 Report of Richard F. Bero dated December 2, 2022.

14 4. Attached to this declaration as **Exhibit 3** is a true and correct copy of the Second
15 Rebuttal Expert Report of Richard F. Bero dated March 1, 2023, which was previously filed on
16 the docket in this matter with redactions to protect confidential material at ECF No. 229-49.

18 5. Attached to this declaration as **Exhibit 4** is a true and correct copy of the
19 Declaration of David Rosa dated April 12, 2023, which was previously filed on the docket in this
20 matter at ECF No. 137-2.

21 6. Attached to this declaration as **Exhibit 5** is a true and correct copy of a press
22 release published by Encore Medical Device Repair on Apr 16, 2024. The press release is
23 available at [https://www.prweb.com/releases/encore-medical-device-repair-introduces-robotic-](https://www.prweb.com/releases/encore-medical-device-repair-introduces-robotic-remanufacturing-and-sustainability-program-at-hspa-302116792.html)
24 [remanufacturing-and-sustainability-program-at-hspa-302116792.html](https://www.prweb.com/releases/encore-medical-device-repair-introduces-robotic-remanufacturing-and-sustainability-program-at-hspa-302116792.html).

26 7. Attached to this declaration as **Exhibit 6** is a true and correct copy of excerpts of
27 the transcript of the deposition of Greg Posdal, 30(b)(6) designee for Surgical Instrument Service
28 Company, Inc. (“SIS”), taken in this matter on November 1, 2022.

1 8. Attached to this declaration as **Exhibit 7** is a true and correct copy of excerpts of
2 the transcript of the deposition of Rick Ferreira taken in this matter on November 10, 2022.

3 9. Attached to this declaration as **Exhibit 8** is a true and correct copy of excerpts of
4 the transcript of the deposition of Keith Johnson, 30(b)(6) designee for Surgical Instrument
5 Service Company, Inc. (“SIS”), taken in this matter on October 27, 2022.

6 10. Attached to this declaration as **Exhibit 9** is a true and correct copy of excerpts of
7 the transcript of the deposition of Kevin May taken in this matter on November 3, 2022.
8

9 11. Attached to this declaration as **Exhibit 10** is a true and correct copy of a letter
10 sent to Richard McCaulley of the McCaulley Law Group, counsel for SIS, on June 24, 2024.

11 12. Attached to this declaration as **Exhibit 11** is a true and correct copy of an email
12 sent to Richard McCaulley of the McCaulley Law Group, counsel for SIS, on July 18, 2024,
13 attaching a draft proposed stipulation of facts.

14 13. Attached to this declaration as **Exhibit 12** is a true and correct copy of a draft
15 proposed stipulation of facts sent to Richard McCaulley of the McCaulley Law Group, counsel
16 for SIS, on July 18, 2024.

17 14. Attached to this declaration as **Exhibit 13** is a true and correct copy of the
18 transcript of proceedings before this Court in this matter on June 7, 2024.

19 15. Attached to this declaration as **Exhibit 14** is a true and correct copy of the Expert
20 Damages Rebuttal Report of Loren K. Smith dated January 18, 2023, which was previously filed
21 on the docket in this matter with redactions to protect confidential material at ECF No. 229-47.
22

23 I declare under the penalty of perjury under the laws of the United States that the
24 foregoing is true and correct.
25

26 Dated: August 12, 2024

27 By: /s/ Paul D. Brachman

28 PAUL D. BRACHMAN

FILER'S ATTESTATION

I, Kenneth A. Gallo, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that the signatory identified above has concurred in this filing.

Dated: August 12, 2024

By: /s/ Kenneth A. Gallo
Kenneth A. Gallo

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